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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the human rights situation in the Republic of Equatorial Guinea submitted by Mr. Alejandro Artucio (Uruguay), Special Rapporteur of the Commission, pursuant to Commission resolution 1995/71 and Economic and Social Council decision 1995/282

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INTRODUCTION

1. The Commission on Human Rights has publicly considered the question of human rights in the Republic of Equatorial Guinea since 1979. At its forty-ninth session, in resolution 1993/69, the Commission requested its Chairman, following consultations with the Bureau, to appoint an individual of recognized international standing in the field of human rights and entirely familiar with the situation in Equatorial Guinea as special rapporteur of the Commission, with a mandate to make a thorough study of the violations of human rights by the Government of Equatorial Guinea on the basis of all the information which he considers relevant, including information furnished by intergovernmental and non-governmental organizations and by private individuals and, in particular, any documentation provided by the Government of Equatorial Guinea. That resolution was approved in decision 1993/277 of the Economic and Social Council, and the Chairman of the Commission appointed Mr. Alejandro Artucio (Uruguay) as the Special Rapporteur.

2. For the last three years, the Centre for Human Rights and the United Nations Development Programme (UNDP) have paid special attention to the situation in Equatorial Guinea and have sent several advisory missions there. By agreement between both organizations, Mr. Eduardo Luis Duhalde Hubert was appointed as the Human Rights Consultant in Equatorial Guinea for the purpose, established in the terms of reference, of, inter alia, assisting the Special Rapporteur in all respects, and in particular providing him with reliable and comprehensive information collected in situ on the human rights situation, and helping the Special Rapporteur to define, in agreement with the Government of Equatorial Guinea, the most appropriate legislative and institutional framework for ensuring an effective improvement in the human rights situation in that country. Of the missions undertaken during this period, the United Nations/UNDP inter-agency mission of April 1993 deserves special mention. Its aide-mémoire constituted a veritable plan of action submitted to the Government of Equatorial Guinea for its consideration. Mention should also be made of the advice given about preparations for elections.

3. At its fifty-first session, the Commission on Human Rights considered the second report of the Special Rapporteur, Mr. Alejandro Artucio (E/CN.4/1995/68) and adopted, without a vote, resolution 1995/71 dated 8 March 1995. In the resolution, the Commission, inter alia, called upon the Government of Equatorial Guinea to take all necessary measures to promote the harmonious coexistence of all the ethnic groups making up the society of Equatorial Guinea (para. 2); to implement all the measures necessary to fulfil the obligations deriving from the International Bill of Human Rights and other relevant international instruments, with a view to furthering democracy, the rule of law and the observance of human rights and fundamental freedoms in Equatorial Guinea (para. 3); to continue improving the conditions of prisoners and detainees (para. 6); and to continue taking the measures necessary to put a complete stop to the practice of arbitrary arrest and detention, torture and cruel, inhuman or degrading treatment and to ensure that those responsible are investigated and punished (para. 7). The Commission on Human Rights also appealed to the Government of Equatorial Guinea to take the measures necessary to improve the legal and social situation of women in that country (para. 9); it invited it to consider ratifying or acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the

International Convention on the Elimination of All Forms of Racial Discrimination (para. 10); it encouraged the Government of Equatorial Guinea to continue the dialogue with all the political forces with a view to achieving consensus on the democratization of the country (para. 4); to facilitate the return of exiles and refugees and to adopt measures permitting the full participation of all citizens in the country's political, social and cultural affairs (para. 5), and to extend and amplify the improvement in human rights, along the lines laid down in Commission on Human Rights resolution 1994/89 (para. 8).

4. The Commission on Human Rights also decided, in the above-mentioned resolution, to renew the mandate of the Special Rapporteur for one year (para. 12); it requested him to report to the Commission at its fifty-second session (para. 14) and requested the Secretary-General to provide the Government of Equatorial Guinea with the technical assistance suggested by the Special Rapporteur in his report (para. 11). The Economic and Social Council approved this resolution in its decision 1995/282 of 15 July 1995.

5. In compliance with the above requirements, the Special Rapporteur has the honour to submit to the Commission on Human Rights his third report on the situation of human rights in the Republic of Equatorial Guinea.

I. ACTIVITIES IN SITU: REPORT ON THE SPECIAL RAPPORTEUR'S FOURTH AND FIFTH VISITS TO THE REPUBLIC OF EQUATORIAL GUINEA

6. The Special Rapporteur undertook his fourth official mission to Equatorial Guinea from 30 April to 7 May 1995 and his fifth mission from 19 to 26 November 1995. On both occasions he was accompanied by the Human Rights Consultant, Mr. Eduardo Luis Duhalde Hubert. The UNDP Resident Representative in Malabo, Mr. Michael Askwith, and his office staff provided valuable and indispensable cooperation to the Special Rapporteur in carrying out his missions.

7. Both in May and in November the Special Rapporteur was received by His Excellency, the President of the Republic, Mr. Obiang Nguema Mbasogo; the Minister for Foreign Affairs and Cooperation, Mr. Miguel Oyono Ndong Mifumu; the Deputy Minister for Foreign Affairs and Cooperation, Mr. Batho Obam Nsue Mengue; the Minister for Justice and Worship, Mr. Francisco Javier Ngomo Mbengomo; the Minister of the Interior, Mr. Julio Ndong Ela Mangue; the Secretary of State for National Security, Mr. Manuel Nguema Mba; and by other ministers, deputy ministers and national authorities. The interviews took place in an atmosphere of cordial understanding. Those interviewed included the President of the Chamber of Representatives of the People and Chairman of the Human Rights Commission of the Chamber, Mr. Marcelino Nguema. The Special Rapporteur is pleased to mention the cooperation provided by the Government of Equatorial Guinea to him in carrying out his mission; the necessary collaboration was always provided through his official liaison with the authorities, the Minister for Justice and Worship.

8. In the course of the two missions, the Special Rapporteur visited the island of Bioko where the capital of the Republic, Malabo, is situated, and

the mainland region of Río Muni, particularly the city of Bata and also areas of the mainland interior such as Niefang and Micomiseng, where he interviewed the local authorities at length.

9. A particular concern of the Special Rapporteur and the Human Rights Consultant on both visits was to have intensive and easy contact with the political parties of Equatorial Guinea, particularly with the opposition parties, but also with the governing party, and with other sectors representing society in Equatorial Guinea, such as the Churches and persons concerned with the protection of human rights. Prisoners and many of those who had been arrested and released, or who reported ill-treatment, persecution or restrictions of their rights, were also interviewed. The visits included the public prisons of Malabo and Bata where the Special Rapporteur was able to interview prisoners freely and in private. On 23 November, the Special Rapporteur visited the leper hospital of Micomiseng, accompanied by the government representative, Mr. Francisco Mbá, because of reports of possible political conflict between patients in the hospital and the local authorities. Conversation with all the inmates (nine men and two women) convinced him that they were properly treated, although there were material lacunae similar to those to be found in other hospital establishments, and that there was no longer any conflict.

10. Since they were also desirous of information on the situation of human rights and the progress of democratization, the Special Rapporteur and the Consultant maintained close contacts with the diplomatic representatives of the main donor countries accredited in Malabo, particularly with Mr. Gérald Brunet de Courssou, Ambassador of France; José María Otero de León, Ambassador of Spain; and Alejandro Montalbán, Chargé d'Affaires of the European Union, and during the May visit, also with Joseph O'Neill, then Chargé d'Affaires of the United States of America. They also maintained contact with the Ambassador of the Republic of Cameroon.

11. In his approach to the various issues covered in this report, the Special Rapporteur would like to stress three central aspects of his investigations:

(a) Situation of prisoners and detainees;

(b) Acts of repression against leaders and activists of the opposition parties; and

(c) Progress of democratization: municipal elections.

There were both gains and losses, and positive and negative developments in all three issues, which will be described in detail and taken carefully into account in the conclusions and recommendations of this report.

12. In the other issues analysed: administration of justice, military jurisdiction; legal structure of the State; publicizing of laws and governmental acts; freedom of expression; religious freedom; freedom of movement and freedom to travel; status of women and ethnic discrimination, no substantial changes or modifications were observed in respect of the situations described in earlier reports, which continue to give cause for concern. The Special Rapporteur wishes to draw particular attention to the

problem of the impunity of perpetrators of human rights violations in Equatorial Guinea, which constitutes a real hindrance to the enjoyment of those rights, as was reaffirmed in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (part I, para. 91).

II. INSTITUTIONAL ASPECTS

A. Administration of justice

13. There have been no changes in the structure of the administration of justice or in its mode of operation. Once again its failure to function properly was observed, not only in criminal proceedings, but also in other matters. Labour legislation is rarely applied and workers do not resort to the law to protect their rights, since they do not trust the system. Another failing continues to be the absence of guarantees of the independence and impartiality of judges, as exemplified by cases of judges who, in addition to their judicial functions, act as officials in the Executive. A clear and distinct separation must be made between both branches, in order to enable judges to ensure respect for human rights in response to any abuse of authority.

B. Military jurisdiction

14. The unlimited encroachment of military jurisdiction into criminal matters continues to be a matter of concern. Military jurisdiction continues to apply to offences that are not of a specifically military nature, such as homicide, theft and fraud. In some cases, military jurisdiction applies simply because the victim or injured party is a member of the armed forces; in others because the perpetrator is a member of the armed forces. However, there is a third category of cases in which neither the offence, nor the perpetrators, nor the victims have anything to do with the military, but which are nevertheless taken up by the military courts. The Special Rapporteur has received reliable information that the rules of due legal process, particularly the right of defence, have not been observed in courts-martial. This was allegedly the case of the proceedings against the political leader Mr. Severo Moto Nsa and 11 other accused.

C. Legal structure of the State

15. A reform of the Political Constitution or Fundamental Law of the Republic of Equatorial Guinea has taken place in the form of Constitutional Act No. 1/1995, of 17 January 1995, and several acts of importance have been passed, but they are insufficient to bring about substantial changes in the legal structure of the State, and consequently the criticism made by the Special Rapporteur in his previous reports, that the legal structure of the State impedes the functioning of democracy, remains valid.

16. Where the Fundamental Law is concerned, the reforms introduced concern its form rather than its substance and only a few introduce substantive changes. The reform of the conditions for becoming President of the Republic should be regarded as a positive step, since it reduces from 10 years to 5 the requirement of prior "establishment" in the country for presidential

candidates (art. 33 of the Fundamental Law). Bearing in mind Equatorial Guinea's recent history and the fact that the main opposition leaders have until recently been in exile, the application of a rule of this nature, which would be reasonable in more normal times, would prevent important political leaders living in exile, who, under the terms of an amnesty had been allowed to return to the country, from being candidates. For this reason, the Special Rapporteur recommended in May 1994 that the Government should consider the possibility of temporarily suspending, as an exceptional measure and only for the presidential elections of 1996, the requirements of article 33 (c) and (f) of the Fundamental Law.

17. While bearing in mind what has been said about the lack of independence in the administration of justice, the new autonomy of the Constitutional Chamber of the Supreme Court of Justice which the reform has elevated to the status of Constitutional Court (arts. 94 et seq.) should be considered a forward step from a regulatory point of view. The same may be said of the Higher Council of the Judiciary which replaces the General Council of the Judiciary (art. 98), the composition of which is to be determined by an act which has not yet been passed. The repeal of the Additional Provision of the Fundamental Law of 1991, which stipulated that the present President should enjoy impunity during and on cessation of his mandate, may also be regarded as a positive step. The text which has been repealed stated that: "the President of the Republic, Obian Nguema Mbasogo, may not be prosecuted, judged, nor called as a witness before, during or after his mandate". The constitutional reform included a new article 32 which now states appropriately that: "The person of the Head of State is inviolable. The law shall govern the privileges and immunities of Heads of State after their mandate."

18. Few laws were enacted during the period January-November 1995, at least as far as the Special Rapporteur is aware, bearing in mind the deficiencies referred to below. However, those that were enacted are important and, generally speaking, denote progress in the democratization process. They may be grouped into two types:

(a) Laws governing fundamental rights and guarantees: Act No. 9/1995 of 9 January, amending certain articles of Act No. 4/1992 on freedom of assembly and demonstration; Act No. 17/1995 of 11 October on civil protection of the right to honour and a good reputation and Act No. 18 of 11 October governing the habeas corpus procedure. The latter, as its preambular paragraphs state, "intends to establish effective and rapid remedies for detentions which are legally unjustified or take place under illegal conditions". This regulatory progress must be accompanied by a resolve on the part of magistrates to put it into practice;

(b) Laws relating to the process of democratization: Act No. 6/1995 of 9 January, reforming Act No. 9/1992 on the legal regime of the central State administration; Act No. 7/1995 of 9 January, amending certain articles of Act No. 3/1993, governing legislative and municipal elections and referendums; Act No. 8/1995 of 9 January, on the financing of political parties; Act No. 10/1995 of 6 January, amending articles 23 and 25 (i) of Act No. 3/1992 on political parties; Act No. 11/1995 of 9 January on the institutionalization of elders' councils; and Act No. 15/1995 of 9 June, governing presidential elections. This lengthy Act, with its 140 articles and

errata, contains a full set of electoral provisions and it would be appropriate for United Nations electoral experts to make a detailed study of its articles, which have not yet been published (the political parties did not have the full text at the time of the fifth mission). The Government provided the Special Rapporteur with a copy in November. It should be pointed out once again that, even following the reforms to the Electoral Act adopted on 9 January 1995, the National Electoral Board, the highest authority where elections and referendums are concerned, continues to exist as part of the Ministry of the Interior, presided over by the Minister (art. 17); the subsidiary bodies also remain under the authority of the Executive: the Provincial Electoral Board is presided over by the Provincial Governor; the District or Municipal Electoral Board is presided over by the local government representative. This structure was a source of conflict in the last municipal elections and undermines the trust and confidence of the population in the transparency of elections.

D. Failure to publicize laws and governmental acts

19. The Special Rapporteur found no changes in the uncertainty about the law resulting from the non-existence of an official State gazette, as mentioned in his previous report to the Commission on Human Rights (E/CN.4/1995/68, para. 27). Although aware of the country's difficult economic circumstances, the Special Rapporteur considers that the Government should make a consistent effort periodically and regularly to publish the written texts of laws, decrees, decree-laws and governmental acts in an official State gazette, whose proper distribution would make it available to all interested sectors of society. This simple measure would improve the above-mentioned situation of uncertainty about the law.

III. SITUATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

A. Prisoners. Visits to prisons

20. On 2 May the Special Rapporteur visited the public prison of Malabo (known as "Black Beach") where from confidential interviews with prisoners and reports supplied by the authorities, he was able to determine that the treatment received in prison was generally good. No prisoners complained of having been tortured or ill-treated in that establishment. However, he observed that there was a complete absence of material resources; food was restricted to two loaves a day for each prisoner, occasionally supplemented by a tin of sardines; medical and educational assistance were lacking and there were no sanitary facilities; compulsory labour performed outside the prison precincts and exclusively for certain officials, receives no remuneration. The Special Rapporteur has already said that the facts that work exists and is performed outside the prison precincts were very positive and demonstrated that prisoners were humanely treated. However, he has pointed out that remuneration should be made for this work, so that prisoners can provide financially for their families' needs, and should come under the control of

the judicial authorities; this is not currently the case (arts. 75 and 76 of the Standard Minimum Rules for the Treatment of Prisoners* provide examples and guidelines for the action of Governments in prison matters).

21. During his fourth visit to the country, the Special Rapporteur was able to interview Mr. Severo Moto Nsa, President of Equatorial Guinea's Partido del Progreso, at the time in prison, and found him to be in good health and detained in acceptable conditions. On the same occasion, it was observed that several of the persons tried and sentenced with Severo Moto had been subjected to ill-treatment and torture before being transferred to Malabo public prison, and had marks and wounds on their bodies (this question is dealt with in section B on torture and other cruel, inhuman or degrading treatment or punishment).

22. In November, during the fifth official mission, the public prisons of Malabo and Bata were visited. In Malabo prison no progress was observed, and the previously-mentioned food, medical and sanitary deficiencies continued to exist. However, no adverse changes in the treatment of prisoners were noted either. There were 18 prisoners in "Black Beach" on 23 November, none of whom could be strictly considered to be a political prisoner. The prison records showed that during October 10 persons, including one woman, were detained for political reasons ("electoral fraud" and "civil disobedience", events relating to the post-election period) and were released on 14 November, five days before the Special Rapporteur arrived in the country.

23. During his visit to Bata public prison in November, the Special Rapporteur observed that the most recent records listed 18 prisoners, 3 of them women. The visit revealed that no progress had been made in the functioning of this prison. The prisoners continue to receive no food; they do not even receive a bread ration and depend exclusively on food brought by their relatives. The living and operating conditions of the prison continue to be very poor. The doctor makes weekly visits but gives no medicines to the sick and simply writes prescriptions that the prisoners are unable to obtain for lack of money. Of the 3 women imprisoned, all for common offences, one, Melania Mangue Meomio, had been sentenced to 12 years' imprisonment for murdering her partner, while defending herself against his constant assaults, and could be considered not guilty on grounds of self-defence, or at least as having acted in extenuating circumstances. Since a judicial review of the sentence is impossible, the Special Rapporteur proposed to the authorities that some form of pardon or conditional release should be considered in this case. Five of the detainees were being tried in separate cases before military courts. At least one of them was not a member of the armed forces and neither the type of offence, nor the victim nor the instruments of its perpetration had anything to do with the military.

24. In the records of Bata public prison, the Special Rapporteur observed that the register of prisoners for 20 October 1995 contained the names of seven persons accused of "disturbing public order" (events relating to the post-election period), who had been imprisoned at the request of the office

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* Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

of the Inspector General of the Armed Forces. They were Antonio Bakale Nvuso, Jesús Juan Ava Ava, Celestino Mbomio Edu, Pablo Mba Mba, Pedro Osa Ndong, Emilio Bang Nve and Eduardo Mba Eyene. They were released before the Special Rapporteur's fifth visit.

25. During his fifth visit, the Special Rapporteur was informed of a serious situation with reference to the prisons. He is in possession of a copy of a communication (Note No. 179 of the Ministry of Justice of 9 November 1995), from the Director-General of Prisons, Mr. Ricardo Eló, whose collaboration with the Special Rapporteur on his previous visits had been most helpful, to the President of the Supreme Court of Justice, in which he reports the following, giving names, particulars and dates:

> "(a) Officials who have set themselves up as governors of the prisons of Malabo and Bata, without being appointed by the Government, and accept bribes to illegally and systematically release from prison, prisoners sentenced by the ordinary and military courts, which represents a serious threat to the administration of justice and to public safety;
>
> (b) The rape of women in prisons by prison governors, and in particular the cases of Mrs. Prisca Afang Envo, who was raped by the governor of Malabo prison, and Mrs. Melania Mangue Mbomio, who was raped by Second Lieutenant Clemente Akugu, governor of Bata public prison, resulting in lesions and bruises over her whole body and genital haemorrhaging;
>
> (c) Diversion and unlawful sale of food intended for the prisoners by these same governors, according to the testimony of the prisoners, attested to by this Director-General in the presence of the Permanent Under-Secretary of the Ministry of Justice and Worship;
>
> (d) Appointment of prison governors by military authorities with no competence in the matter, which very considerably hampers the work of the officials of the Special Prisons Corps and the doctors assigned to the prisons."

26. Following this communication, the Director-General of Prisons, Mr. Ricardo Eló, was immediately removed from his post and another official appointed in his place.

B. Torture and other cruel, inhuman or degrading treatment or punishment

27. Both in May and in November 1995, the Special Rapporteur observed that the practices of torture and ill-treatment of detainees continued. As has already been said, on his visit to Malabo public prison on 2 May, he observed the injuries inflicted during detention on Mr. Agapito Ona Nguema, Secretary-General of the Partido del Progreso, on Mr. Norberto Nkulu Ndong, Organizational Secretary of that party, and on the soldiers Pedro Masa Mba, Federico Ona Nsa and Rufino Ntutumu Abago. Ex-Lieutenant Colonel Pedro Esono Mesié, ex-Major Leoncio Esono Miká and Second Lieutenant Manuel Eyene Nzogo

were subjected to psychological torture in the 3 de Agosto barracks in the Central Military Camp and in the environs of the Palacio de Africa, in the city of Bata.

28. During his visit in May 1995, the Special Rapporteur was informed that on 16 December 1994, Juan Mongomo Eboro, who was one of the persons sentenced in connection with the events in the village of Kogo in 1994 for attacking a military post, and who had escaped from Bata prison and subsequently been recaptured, had once again been tried for escaping, sentenced to death by a court martial and shot next day. The Special Rapporteur had requested a copy of the sentence from the Minister of Justice and Worship in May 1995 but had never received it.

29. The Special Rapporteur was informed that, following the municipal elections on 17 September 1995, acts of persecution were carried out against opposition activists. As a result, nearly 100 of them were detained for periods generally not exceeding 30 days, some were tortured and a large number received corporal punishment in the form of 100 lashes. The Special Rapporteur noted that although they had been released and time had passed, on 19 November 1995 several persons still showed definite traces of the injuries received. They included: Baltasar Abaga Obiang (the punishment took place on 19 October), an activist in the Unión Popular party, and Rafael Mbula Melango (punished on 26 October) had deep wounds on their backs caused by blows from sticks and truncheons which they had received in Malabo's main police station.

30. Similar evidence of the punishment inflicted could be seen in the case of Mrs. Rosa Abeme Otong, aged 48, deputy secretary for international relations of the Partido del Progreso. Mrs. Abeme had travelled from Malabo to Mongomo on the mainland to find out what had become of her husband, Bonifacio Nguema Esono, founder of the Fuerza Demócrata Republicana (FDR) party, who had been arrested in the capital on 11 October and taken under arrest to the city of Mongomo. She was arrested on 28 October and tortured on the premises of the Police Inspectorate in the presence of the government representative. She was interrogated about the contacts that the leader of her party, Severo Moto, and also her husband had had with Nigerian military personnel. She was subsequently released.

31. Jesús Marcial, an activist in the Convergencia para la Democracia Social party (CPDS), arrested on the day of the municipal elections in the Los Angeles district of Malabo, was also tortured. He was held for five weeks in the main police station without any charges being brought against him and without being brought before a court. As a result of the torture, he was admitted in serious condition to the Central Hospital in Malabo, with permanent lesions of the spinal column, a fracture of the left arm and blood in his urine. The Special Rapporteur also noted the consequences of the ill-treatment suffered by Anacleto Mngonga Ondo, who was detained from 21 September to 2 November in the Malabo police station. He was given a provisional release without being brought before a court. Mr. Silvestre Orichi was arrested on 6 October 1995 when he went to Basacato to find out about other detainees and remained in detention until 13 November; he was tortured, and then transferred to Malabo public prison, but there is no record of his legal admission. He was released without the intervention of any judicial authorities either in his arrest or in his release. As a result

of the injuries to his feet, he is barely able to walk. Finally, José Abray Kokung, was arrested in Niefang during the elections and shows marks of torture.

C. Presidential pardons

32. On 3 May 1995, the Special Rapporteur requested His Excellency the President of the Republic to grant clemency, in the exercise of national sovereignty, to two groups of persons sentenced to long terms of imprisonment:

(a) The 14 persons sentenced by court martial in 1994 to sentences of up to 30 years' imprisonment as a result of the so-called Kogo events, for the offences of assault on the Head of State and against the form of government (attempted attack on a military post);

(b) The 12 persons sentenced by court martial on 19 April 1995 in Malabo, in highly summary proceedings, to sentences of up to 30 years' imprisonment for the offences of assault on the Head of State, against the form of government and high treason; in addition to their release, he also asked for their reintegration into the political life of Equatorial Guinea. Those sentenced included Mr. Severo Moto, President of the Partido del Progreso of Equatorial Guinea.

33. On 2 August 1995, the eve of the anniversary of his coming to power, the Head of State, acting under express provisions of the Constitution, approved a pardon for all the persons referred to, while a further seven were released unconditionally and the criminal sentences, the accessory civil sentences and all current proceedings against them set aside. The Special Rapporteur welcomed this act of clemency in a public communiqué distributed to the international press in Geneva as a sign of the Government's desire to continue to progress towards democratization and as a way not only of reassuring many families in Equatorial Guinea, but also of bringing about the conditions necessary to enable the municipal elections of September 1995 to take place in a more relaxed climate in which public freedoms could be exercised.

D. Persecution of political leaders and activists during the pre- and post-election periods

34. The decrease observed in May 1995 in the numbers of arrests and arbitrary detentions of political leaders and militants regrettably underwent a marked reverse following the municipal elections held on 17 September 1995. The results obtained by the opposition in those elections led to reprisals both on the island of Bioko and in the mainland region of Rió Muni, according to what the Special Rapporteur has been able to ascertain. A similar situation has been reported in connection with the island of Annobón. This repression was denounced by the parties which make up the Joint Opposition Platform (POC) and by the Unión Popular (UP), for the most part, with the result that the community of donor States and the representatives of the United Nations Development Programme (UNDP) expressed their deep concern at this situation to the authorities of Equatorial Guinea. Similar persecution and reprisals were denounced by the representatives of the Movimiento de Autodeterminación de la

Isla de Bioko (MAIB), which the Government has refused to recognize legally as a political party, on the grounds that it supports the territorial dismemberment of the nation of Equatorial Guinea.

35. Despite a forthright denial by the Government in a communiqué dated 29 October 1995 and signed by the Minister of the Interior, Mr. Julio Ndonge Ela Mangue, stating that no mass arrests of opponents had taken place and that such reports were completely untrue, the Special Rapporteur had before him written evidence of summonses and release orders and the testimony of more than 40 persons who were actually involved, all of which gives credibility to the reports. They refer to over 100 detainees, for the island of Bioko and the mainland areas of Bata, Ebebiyin, Micomiseng and Nsok-Zomo. Nearly all were detained for periods of less than 30 days and a large number of them had to pay fines ranging from CFAF 10,000 to 200,000 (US$ 1 = CFAF 470) to obtain their freedom, these fines being imposed directly by the government representatives or by the police, without any judicial supervision. The cases include those of Alberto Ndong Eyama; Martín Puye Topepe; Pedro Esono Mba; Clemente José Obiang Oyana; Ildefonso Nzang Ondó; Antonio Pelico Siesa; Tarcisio Juan Tray; Rafael Sipele Bolopo; Serafín Riokalo Sila; Antonio Kopoboru; Aurelio Losoha Balopa; Claudio Borilo Probi; the couple Ramón Biyogo Oloha and Leocadia Ngo Njenek and their young children; Jesús Marcial Mba Dikombo; Silvestre Orichi; Elvira Behaba Site; Juan Marcos Ntutumu; Eustaquio Alogo Eyang; Esteban Marcoli Sitafa; Rosa Abeme Otong; Anacleto Ngonga Ondo; Baltasar Abaga Obiang; Rafael Mbenk Melango; Antonio Nsue; Pedro Micó; Justino Eló Evono; Agapito Esono and José Abray Kokung.

36. Most of the hostile acts, detentions, corporal punishment, death threats and illegal collection of fines by coercion occurred on the mainland, where some village chiefs, representatives of the Government and security forces punished villagers identified as belonging to political parties opposed to the ruling party. Persecution was more intensive and aggressive in places where the government party, the Partido Democrático de Guinea Ecuatorial (PDGE) was defeated by other political groups. Such acts enjoyed complete impunity; they were not officially investigated and their perpetrators were not held criminally responsible.

37. In a number of the places the Special Rapporteur visited, the authorities of the Partido Democrático de Guinea Ecuatorial interviewed by him and the Human Rights Consultant reported attacks on leaders and members of their party by opposition party activists, on account of the elections in September 1995. In many cases, they produced medical certificates and police reports of physical injuries or showed the Special Rapporteur the consequences of those injuries and informed him of attacks on their property, which in one case involved the burning of several vehicles. They attributed these acts of vandalism to the aggressive manner in which the activists of the opposition parties had run their election campaigns and also blamed Spain's Radio Exterior's broadcasts to Equatorial Guinea for inciting people to violence with reports of electoral fraud, which they regarded as groundless.

38. Other instances of arbitrary acts concerned:

(a) Mr. Severo Moto Nsa, who was one of those pardoned on 2 August 1995, and is currently in Spain; he received a summons on 28 September 1995 from the Criminal Division of the Military Courts "in connection with articles published in the international press in which he referred to matters relating to the offences for which he was sentenced by the Military Court";

(b) The former soldier Pedro Masa Mba Obono, who was also pardoned on 2 August 1995 after being sentenced to 30 years' imprisonment; he told the Special Rapporteur that he constantly received death threats from "members of the President's bodyguard" and asked to be given a visa so that he could leave Equatorial Guinea and seek political asylum in a neighbouring country;

(c) The situation of former highly-placed government officials, now out of sympathy with the governing party to which they were linked in the past and now the founders of a new political party, Fuerza Demócrata Republicana (FDR), for which they are seeking legal recognition, namely: Felipe Ondo Obiang, who was President of the Parliament; Eloy Eló Nve, former government minister and former Attorney-General of the Republic, and Bonifacio Nguema Esono, who was Ambassador of Equatorial Guinea to the Organization of African Unity (OAU). The first two, alleging that their movements had been restricted and they had received death threats, had chosen to leave their country for the Gabonese Republic. Bonifacio Nguema's wife, Mrs. Rosa Abeme Otong, was, as has already been said (see para. 30), arrested and tortured. Mr. Eloy Eló Nve reported similar death threats;

(d) State officials who allegedly lost their jobs because they belonged to opposition political parties, following the municipal elections, as in the case of the employees dismissed from the National Shipping Company, namely: Santiago Osa Mba, Celestino Bestué, Manuel Ekwa Edu, Venancio Nague, Abelardo Sales, Eugenio Mahón, José Luis Abaga Etem and Máximo Ondo, who were accused of having voted for the opposition parties.

39. A new phenomenon which has emerged in the spectrum of arbitrary action is the presence of police night patrols, who harass and pester people on the streets of the main cities, demanding money and beating up anyone who refuses to give it.

E. A murder left uninvestigated in Meboman-Nsok

40. The most serious incident which occurred in the post-election climate described took place in the village of Meboman-Nsok, 53 kilometres from Ebebiyin on the mainland. According to the report made to the Special Rapporteur by Mrs. Cecilia Nsa, mother of the late Félix Esono, at 10.30 a.m. on 19 September 1995, two soldiers, probably from the President's bodyguard, appeared in the village, driving a jeep-type vehicle. When they saw Mr. Felipe Esono, an activist of the Unión Demócrata Social party (UDS) in the "Talking House", the public meeting place, they started to shout at him and then attacked him; at this point, his son, Félix Esono Mba, aged 33, married and a farmer by profession, intervened. The solders responded by opening fire, seriously injuring Félix Esono and hitting his father in the leg. The seriously injured man was loaded into an official vehicle and hours later the same soldiers reappeared with his body and arrested the dead man's father and

family: Juan Abaga Ondó, Bonifacio Ondó Ndongo, Gabriel Esono Asumu and Diosdado Ondó Edjó. Since no authority had apparently had any hand in preparing the relevant summary proceedings, the Special Rapporteur asked the Minister of Justice and Worship, in a note of 21 November 1995, to furnish him with information as to what had actually happened, the names, ranks and units of the soldiers who had taken part in the incidents which had led to the death, together with the name of the magistrate assigned to the case; at the time of drafting this report, the Special Rapporteur had received no reply.

F. Political rights

41. The outstanding event of the period under analysis was the holding of municipal elections to elect the officials who would sit on the councils of the country's 27 municipalities. All Equatorial Guinea's officially recognized parties took part, unlike the legislative elections of 21 November 1993, where the parties in the Joint Opposition Platform (POC) coalition had decided to abstain given the absence of guarantees. The process culminated in the elections of 17 September 1995 and was preceded by a climate marked by improved guarantees and an easing of political tensions, due to the effect of a new electoral act which, while it did not respond to certain demands by the opposition parties and suggestions by the United Nations consultant on electoral matters and the community of donor States, such as the creation of an independent electoral administration (under existing law, it is part of the Ministry of the Interior), enabled the whole range of political parties to take part in the elections.

42. It can be said that, during the preparation of the electoral rolls, then during the "pre-campaign" period and later, during the electoral campaign proper, the incidents reported did not hinder the process and, generally speaking, the rights of the political parties were respected to a reasonable extent. Their premises remained open and functioning, and meetings were allowed - with the restrictions already mentioned - for the election of candidates for each locality and for political propaganda. As the elections consultant, Mr. Luis Luna Raudes (UNDP), who was in the country from 21 July to 15 October 1995, pointed out in his mission report, generally speaking, the municipal elections in Equatorial Guinea on 17 September 1995 represented significant progress in the process of democratization (p. 18), with the presence of 18 international observers, albeit with limited monitoring powers.

43. Despite what has been said, the transparency of this progress became clouded when the votes were counted, since the results published by the Government, which gave the victory in 18 municipalities to the government party, the Partido Democrático de Guinea Ecuatorial (PDGE), and in 9 to the Joint Opposition Platform (POC), the Unión Popular (UP) and the Convergencia para la Democracia Social (CSDP), were challenged by the opposition parties, in the belief that the figures for 4 municipalities had been tampered with; according to the polling registers, signed by the presiding officers, the opposition forces had won those seats. Other aspects also called in question included the decision not to use indelible ink to identify voters, which might have made it easy to cast a double vote; the lack of printed material and of specific electoral lists for some parties; the fact that the ballot papers with the lists of candidates of the official party and those listing the opposition candidates were in different places, thus frightening voters, who

regarded this as a "public ballot"; the exclusion of the representatives of the opposition from the counting of votes and the holding of a recount by the National Electoral Board.

44. The Government's tardy publication of the results - for 11 days no information at all was given - and the unofficial recounts because of results which gave the victory to the opposition in some districts, detracted from the transparency and credibility of the official results, which for large sectors of the population were thus not reliable. Although the actions brought by the opposition parties against the results of the voting were rejected by the judicial authorities on grounds of form, a reasonable doubt persists. Some of the municipalities in question are very significant, as in the case of Bata, the country's second city and the chief centre of mainland Equatorial Guinea.

45. The opposition decided that, of the councillors elected from their lists, only 57, who were elected in 10 town councils (5 on the island of Bioko and the rest on the mainland) and their own 9 mayors should take up their posts, in order to prevent the regime from claiming a complete election victory, but they refused to do so in the districts where it was reported that they had been illegally deprived of victory through electoral fraud.

46. The results of the elections, and in particular the acclaimed triumph of the opposition in 33 per cent of the municipalities, including Malabo, the capital of the Republic, where the office of Mayor fell to the leader of the Alianza Demócratica Progresista (a member of the POC), Mr. Victoriano Bolekia Banay, of the Bubi tribe, and the reports of electoral fraud referred to above, cast a shadow over the post-election situation. Mutual accusations, clashes between militants of the official party and the parties disputing the results, and the action taken by outlying government authorities in punishing activists and opposition leaders, led to the situations described in this report.

G. Freedom of assembly and demonstration

47. Freedom of assembly and demonstration is regulated by Act No. 4 of 1992. In his first report, the Special Rapporteur (E/CN.4/1994/56, para. 63) observed that this Act had instituted a restrictive regime whereby the rights set out in article 13 (b) of the Fundamental Law might come to be without substance. Act No. 9 of 1995 partially amended the restrictive provisions (arts. 3, 8, 9 and 11) and improved and extended the guarantees for implementing them. Despite this, during the campaign leading up to the municipal elections - several months after the amendments came into force - it could be observed that unacceptable restrictions on their implementation continued in practice, particularly on the mainland where the government representatives (for example, of Mbini and Kogo) allowed the political parties to meet their councillor candidates only (not more than 10 in number), and refused them the right to meet voters and explain their programmes.

H. Religious freedom

48. During the period under consideration, no amendments were made to the Act governing the exercise of religious freedom (Act No. 5/1992 of 10 January). Although the various denominations could worship without hindrance, the

Special Rapporteur received a complaint of State interference in worship by the Roman Catholic priests, Pedro Ncogo and Marcelo Encema. The previous government representative in Niefang (who was subsequently replaced by Mr. Silverio Bacá Mbá, who was interviewed by the Special Rapporteur) ordered both priests on 9 October 1995 to stop preaching sermons "with political content". At the end of October, considering that his "orders" had not been carried out, he extended the prohibition to visiting the Christian communities in the district and expelled the priest Pedro Ncogo from the diocese of Niefang.

I. Freedom of movement and freedom to travel

49. The right of nationals to enter and leave their own country and to travel freely within it was by and large respected during the period under analysis. Most of the opposition leaders who wished to travel abroad were able to do so. However, during the elections, the representatives of the political parties met with obstacles when they attempted to travel on the mainland, as has already been said.

J. Legal recognition of non-governmental organizations for the promotion of human rights

50. The Special Rapporteur was able to interview the representatives of three non-governmental organizations which are applying for legal recognition. One of these is the Liga para la Defensa de los Derechos Humanos en Guinea Ecuatorial (League for the Defence of Human Rights in Equatorial Guinea) which applied to the Ministry of the Interior for recognition in April 1994, but with no success to date. The risk here is that until this happens the authorities may regard any action taken by the League as "illegal". The Special Rapporteur wishes to recall General Assembly resolution 40/123 of 13 December 1985 which "draws attention to the constructive role that national non-governmental organizations can play". This is reaffirmed in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, which also states that non-governmental organizations should be "free to carry out their human rights activities, without interference ...". (Part I, para. 38).

K. Situation of women

51. Pursuant to Commission on Human Rights resolutions 1993/46 and 1995/86 of 8 March 1993 and 8 March 1995 respectively, the Special Rapporteur has again looked into the situation of women in Equatorial Guinea and their position in society. He would point out that he has observed no changes and that women continue to be relegated to an inferior position and discriminated against. During his May visit, the Special Rapporteur observed that a woman was being held in Malabo prison for not paying back her dowry following separation. During his next visit, he observed that a woman was being held in Bata prison for the same reason. He has pointed out in previous reports that the International Covenant on Civil and Political Rights, which has been ratified by Equatorial Guinea, prohibits in article 11 any type of imprisonment for indebtedness and it may be deduced from the text that a sentence of indeterminate duration ("until she pays back the dowry") is likewise prohibited. The Special Rapporteur discussed the matter with the regional judge of Micomiseng, whose understanding it was that such cases of imprisonment were legal.

52. The Special Rapporteur also recalls that, under article 18, paragraph 3, of the African Charter on Human and People's Rights, adopted in Nairobi in 1981, the African States also expressly undertook to ensure the elimination of every discrimination against women.

L. Ethnic discrimination

53. In his second report to the Commission on Human Rights in January 1995 (E/CN.4/1995/68), the Special Rapporteur considered that it was not within his competence to express an opinion on the issue of self-determination, in the absence of a specific mandate from the Commission on Human Rights. Such subjects should in any case be considered by the United Nations bodies with specific competence to do so. He also said that the case of ethnic discrimination was different and was clearly within his mandate, in the present case with reference to the Bubi ethnic group of the island of Bioko and also the inhabitants of the island of Annobón. On each of his visits to Equatorial Guinea, the Special Rapporteur had received well-founded reports of discrimination of this type.

54. Notwithstanding the above, nothing should prevent freedom of action by the movement of which many Bubis are members, the Movimiento de Autodeterminación de la Isla de Bioko (MAIB), which is non-violent and asks only to exercise its right of self-determination which international law recognizes in principle for all "peoples", without exposure to discrimination or repression. Any group which neither advocates violence nor attacks the State's institutions and whose intention is to move towards constitutional reform, should not be prevented from promoting the exercise of an accepted right or be persecuted on the grounds that they are undermining the integrity of the State. An example would be movements or parties which propose the establishment of a constitutional monarchy in a republican system. Opposition to such ideas should be conducted through an open exchange of ideas and opinions.

M. Impunity of the perpetrators of serious human rights violations

55. It will be difficult to make any real progress in the effective exercise of human rights in Equatorial Guinea, except incidentally, as long as the highest government and judicial authorities show no desire to put an end to the impunity enjoyed by State officials who are the actual perpetrators and the instigators of human rights violations. The Special Rapporteur has found no evidence that the cases referred to in previous reports, or in this report, have been the subject of judicial and/or administrative investigation. The only case which he knows has been taken before the courts is that of the Chief of Police of Malabo, Mr. Cayo Ondo Mba, sentenced to two years and four months' imprisonment for the homicide of the peasant Martín Obama Ondo on the Malabo Airport road. However, reliable reports indicate that the Police Chief did not serve his prison sentence, nor is there any report that he was suspended from active police duty.

56. As stated in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993, if no steps are taken to combat impunity, a firm basis cannot be provided for the rule of law (Part I, paras. 60 and 91). The tolerance of the Government of Equatorial Guinea

towards those who take advantage of their positions as civil servants and members of the military to violate the fundamental rights of individuals is a matter of deep concern to the Special Rapporteur, as it will doubtless also be for the Commission on Human Rights.

IV. OTHER RIGHTS: ECONOMIC, SOCIAL AND CULTURAL RIGHTS

57. In view of the paucity of information available and the limits of this report, the Special Rapporteur will curtail discussion of these aspects and give a brief overview of the economic situation of Equatorial Guinea, with special reference to the rights to education, health and work.

58. The population of Equatorial Guinea lives in a climate of widespread poverty, which may in many cases be described as extreme poverty. Existing macroeconomic indicators show that the country is going through a serious financial crisis. The lack of information, however, does not permit a detailed analysis since the country has no data bank to provide indicators which would enable its progress in economic, social and cultural rights to be measured.

59. The per capita gross national product (GNP) in 1993 was US$ 360. Since the late 1980s, Equatorial Guinea has been the subject of annual structural adjustment programmes supported by the World Bank and the International Monetary Fund which have not achieved the desired objectives, namely, the reduction of financial imbalances and diversification of the production base. The GNP has shown a tendency to decline in recent years despite progress in agricultural production, a boom in timber operations and the steady increase in crude oil production since 1992. The UNICEF publication "The Progress of Nations", 1995, states that per capita GNP is a reference which allows a comparison of Equatorial Guinea with other countries, but which in no sense should be regarded as a reliable indicator of the evolution of economic, social and cultural rights.

60. The country has a huge foreign debt and is particularly dependent on economic assistance from the donor States for major activities in the public sector, for example, in health matters. Similarly, the deficiencies of the internal revenue service, revealed by the State budget deficit and its lack of transparency create a further obstacle to the enjoyment of the rights in question.

61. Where the right to health is concerned, medical centres are inadequate and are short of trained staff to deal with the public at large. Similarly, there is no national policy for training doctors in order to provide primary care in areas without health services. There is a blatant discrepancy between the services provided in urban areas like Malabo and Bata and the services available in rural areas.

62. The infant mortality rate was 118 per thousand (1992 data), while the mortality rate for children under 5 was 182 per thousand. The main causes of death are malaria, acute respiratory infections, dehydration caused by diarrhoea and forms of anaemia. The lack of prevention vis-à-vis these diseases and their fatal effects may be attributed to inadequate medication, the lack of consultations with a doctor to establish a diagnosis and early

treatment, and the geographical and financial inaccessibility of medical treatment. The low level of purchasing power among the population and the high cost of medicines are factors which stand in the way of access to health.

63. The Special Rapporteur received reliable information that as from 1992 the vaccination policy promoted by the World Health Organization (WHO) had been suspended, and that the Government had initiated no further efforts to date. As from that date and according to the representative of WHO, there was a considerable drop in the percentage of children under one year old who had been vaccinated against avoidable diseases (a 6 per cent drop in the cases of diphtheria, tetanus, whooping cough and poliomyelitis, and 13 per cent in the case of measles).

64. Another indication of the precariousness of this situation and its particular repercussions on women is the limited access to family planning. UNICEF estimated in a national survey taken in 1993 that only 15 per cent of women of child-bearing age had had recourse to family planning. This situation severely affects women; deaths from complications of pregnancy are common at a very early age. At the same time, the practice of clandestine abortion is increasingly widespread, particularly among women under 15, with its resulting deaths.

65. The Special Rapporteur was informed by the representative of WHO that the only medical centre for the disabled restricted its care to lepers. He visited the centre, situated in Micomiseng in the Río Muni region of the mainland, accompanied by the government representative, Mr. Francisco Mbá, where he met 11 hospitalized patients (9 men and 2 women), in addition to whom there are 105 out-patients at different stages of treatment who receive medical attention but continue to live at home. He gathered from conversations with the patients that they find the care adequate although there is a clear lack of medicines. There are also serious deficiencies in the sanitation and drinking water systems and in the quality of the water which is a vector of disease.

66. With reference to the right to education, the Special Rapporteur was informed by the representative of UNICEF in Equatorial Guinea that 50 per cent of school-age children do not attend primary school. There are five years of primary education dispensed in three types of educational centre: 569 primary schools situated in large villages, 27 national colleges situated in the district capitals, and a series of private institutions, mostly religious. The ratio of pupils to teachers is on average 60 to 1, and in some places as much as 100 to 1.

67. Obvious problems which affect primary education are the drop-out rate and late entry into the system. Girls have a high drop-out rate after the age of 12, often due to precocious child-bearing. All of this contributes to the inability of women to have access subsequently to jobs for which an appropriate educational level is required on an equal footing with men, and thus aggravates the discrimination to which they are subject. Other problems in education concern the poor state of many school buildings and the lack of educational materials.

68. Lastly, with reference to the right to work, the country suffers from a major lack of sources of work and employment, and very high rates of unemployment and underemployment. Most labour activities can be classed as subsistence activities, and only in a few exceptional cases is capital accumulated. Informal activities, such as selling products in markets in the cities and urban areas, were proliferating. The absence of a proper application of labour law was mentioned in the discussion of the administration of justice.

V. CONCLUSIONS

69. The year 1995 was crucial for the process of transition to democracy in Equatorial Guinea and the Special Rapporteur considers that major progress has been made. The municipal elections held on 17 September 1995 were politically the most significant event since the signing of the National Pact in March 1993. The triumph of the opposition recorded in nine town councils and its assumption of those offices represents the first practical exercise of the principle of alternation of power, which is the basis of the democratic system, and a new step in the brief history of Equatorial Guinea as an independent nation.

70. For the Special Rapporteur, the municipal elections held on 17 September 1995 constituted a major step forward, although the reports of electoral fraud, the political tensions and the acts of reprisal following the elections must be a matter for concern not only per se but also vis-à-vis the presidential elections called for July 1996. The post-election process has shown up with great clarity the absence of a democratic political culture within Equatorial Guinea society where the principles of political coexistence, respect for dissidence and tolerance of the political activity of others have not yet been absorbed or understood.

71. The above has resulted in the paradoxical situation in which the progress represented by the holding of the municipal elections has meant a step backwards where respect for human rights is concerned, because of the impact of the breaking of the monopoly on municipal power which until then had been exclusively in the hands of the Partido Democrático de Guinea Ecuatorial (PDGE). It may reasonably be hoped that the wave of violence which has been unleashed will disappear and give way to genuine political coexistence among the people of Equatorial Guinea.

72. Another development of major importance which must be seen as positive concerns the existence of persons imprisoned or detained for political offences or on political or ideological grounds. The Special Rapporteur wishes to point out that during his November 1995 visit to the prisons of Malabo and Bata he met no one who had been imprisoned on those grounds, while none of the people to whom he spoke, who included representatives of opposition political parties and non-governmental organizations, mentioned the existence of such a category of prisoners.

73. The Special Rapporteur welcomes this fact, although he has pointed out to the authorities that the hundred or so persons actually arrested in the pre- and post-election periods should never have been detained, far less subjected to punishment or ill-treatment or to administrative penalties in the form of

fines. He ventured to remind the authorities that the obligations of any State include carrying out a prompt and impartial investigation of any report of torture, ill-treatment or arbitrary imprisonment; bringing to trial those responsible for such conduct and, if necessary, handing down penalties in keeping with the gravity of the acts and the positions of the perpetrators; ensuring the rehabilitation of the victims and providing compensation for them and/or their relatives. It is only in this way that a start can be made on combating the obstacle of impunity and restoring the people's belief in justice.

74. Another development to be seen as positive was the extensive pardon granted by the Head of State on 2 August 1995 to more than 30 persons, known for their links to the political opposition, who had been sentenced by courts-martial to up to 30 years' imprisonment; among them were the President of the Partido del Progreso and a member of the Joint Opposition Platform, Mr. Severo Moto Nsa.

75. Although much remains to be done and resistance and reactionary attitudes may be perceived within the structure of the State, the Special Rapporteur observes some measure of political will to continue with the process of democratization. This may be deduced both from the events assessed as positive at the start of these conclusions and from the legal reforms introduced which, although inadequate, are a sign of progress. The passage of the act regulating habeas corpus should be noted in this regard, together with the announcement made by the President of the Republic in the interview of November 1995 with the Special Rapporteur and the Human Rights Consultant, in the presence of the Minister of Justice and Worship, of the forthcoming ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur observes a similar desire for democracy among the opposition parties, who have shown that they have the necessary patience and wisdom to continue along the right road.

76. This report would not be complete if it did not mention a series of obstacles which continue to exist and must be removed if respect for human rights and fundamental freedoms is to be achieved in Equatorial Guinea. These obstacles, retrograde steps and negative developments will be indicated in the recommendations to the Government.

77. In the opinion of the Special Rapporteur, the observance of human rights and fundamental freedoms in Equatorial Guinea has not reached a level which would allow the Commission on Human Rights to set aside the concern expressed to date in a number of its resolutions, or to scale down its monitoring of the situation. Despite the progress made, serious human rights violations continue, and the State's response to them has been blatantly inadequate.

VI. RECOMMENDATIONS

78. The Special Rapporteur considers it to be of the greatest importance that the Government of the Republic of Equatorial Guinea should transmit precise instructions to the forces of order and security (police and military) not to make arbitrary arrests and to respect the right of the individual to

security, integrity and freedom. It is essential to guarantee the right to personal integrity, and put an immediate end to all acts of torture and cruel, inhuman or degrading treatment.

79. The Government of Equatorial Guinea should also give firm and precise instructions to government representatives and other local authorities to put an end to abuses, and to the intimidation and harassment of activists of the political parties. These instructions should include respect for the right of all nationals of Equatorial Guinea freely to express their opinions and to unite in acting on them in a context of legality consonant with a democratic society.

80. Decisive measures should be taken to combat the impunity of those responsible for various serious human rights violations. The measures adopted could have a triple goal: to act as a deterrent for the future; to purge the forces of order and security of their harmful elements; and to restore the trust of the population in its institutions and particularly in the administration of justice. The Executive, the Legislature and the Judiciary must work together in these efforts.

81. The conditions in which detainees and prisoners are held should be urgently improved, and sufficient food provided. They should also be given medical care, including medicines and proper treatment. Detainees and prisoners should be paid for their work so that they can meet their own basic needs and those of their families.

82. It is essential to make every effort to bring about a climate of trust and détente between the Government and the opposition to facilitate agreement on major national questions, including the election process leading up to the 1996 presidential elections. Encouragement should also be given to increasing the limited involvement of civil society in the political, social and economic life of Equatorial Guinea.

83. It would be desirable for the Government and Parliament to envisage further reforms of the Electoral Act, as amended by the Act of 9 January 1995, so as to provide a legal framework which will guarantee that elections are both "clean" and credible, particularly in respect of the electoral authorities. On the basis of the recommendations made by the United Nations electoral consultant who visited the country and remained there for several months, it may be thought that the legislation in force which makes the National Electoral Board, of which the Minister of the Interior is president, the supreme electoral body, followed by the Provincial Electoral Board, presided over by the Provincial Governor, and, in descending order, by the District or Municipal Electoral Board, presided over by the government representative, is not the best system for ensuring public credibility. According to the consultant, the electoral authorities should be removed from the orbit of the Executive and independent bodies established which will take into account Equatorial Guinea's cultural characteristics and on which the various political forces will be represented.

84. It would be vital to improve the way in which the administration of justice operates in all respects. The Special Rapporteur therefore recommends the adoption of legislative and administrative measures which will guarantee

the full independence and impartiality of the Judiciary and ensure the due process of the law, including the right to a defence in court proceedings. In this connection, improving the training of judges and magistrates, prosecutors and lawyers in national and international human rights law, with the help of the United Nations, will be a priority.

85. Where the military courts are concerned, the Special Rapporteur reiterates his earlier recommendation to restrict their jurisdiction to trying strictly military offences committed by military personnel. Ordinary offences committed by military or police personnel should be judged by the ordinary courts, like offences committed by private individuals.

86. As regards the situation and status of women, it would be advisable to adopt new legislative and practical measures to eliminate all the forms of discrimination to which they are subjected, including the adoption of positive measures with the aim of improving the effective participation of women in the educational, professional, social and political spheres.

87. Any sign or symptom of ethnic discrimination should be opposed. In this connection, nothing should prevent the movement involving members of the Bubi ethnic group in the Island of Bioko from acting freely, without discrimination or repression, provided it continues not to encourage violence. The varied ethnic composition of society in Equatorial Guinea should be regarded as an enriching factor and the Special Rapporteur does not doubt that this is what the authorities and the majority of the population believe. All aspects of their participation in political, social and cultural life should therefore be resolved through the unrestricted exchange of ideas and opinions.

88. The Government of Equatorial Guinea and other authorities should pay particular attention to ensuring that all the population enjoys its economic, social and cultural rights and should foster the conditions needed to make this possible; this will require due account to be taken of the traditions and cultural values of Equatorial Guinea, in the light of international human rights norms.

89. Lastly, the Special Rapporteur recommends that the international community should continue to follow the situation of human rights in the Republic of Equatorial Guinea and simultaneously continue to urge the Government towards greater and sustained efforts, in accordance with guidelines laid down by the Commission on Human Rights. Accordingly, in the interest of continued cooperation in achieving the desired changes, it is very important for the Commission to reiterate its request to the Secretary-General of the United Nations to continue to provide, through the Centre for Human Rights, technical assistance and advisory services in the form suggested by the Special Rapporteur in his 1994 and 1995 reports (E/CN.4/1994/56 and E/CN.4/1995/68), and in particular, with the cooperation of the United Nations Development Programme (UNDP), to continue with the programme of courses and seminars which has already made a successful start with the holding of two training courses in Malabo in March and June 1995.